

**IN THE CIRCUIT COURT OF SAINT LOUIS COUNTY
STATE OF MISSOURI**

JAMES HOFT,)
)
And)
)
JOSEPH HOFT,)
)
And)
)
TGP COMMUNICATIONS, LLC,)
a Missouri limited liability company)
d/b/a The Gateway Pundit)
)
And)
)
YAACOV APELBAUM,)
)
And)
)
XRVISION LTD., a New York corporation)
d/b/a XRVision)
)
Plaintiffs,)
)
v.)
)
DEAN STURMAN MILLER,)
an individual,)
)
Serve:)
1038 W. 5th Street)
Port Angeles, WA 98363)
)
1040 W. 5th Street)
Port Angeles, WA 98363)
)
Defendant.)

Case No.:

Division:

JURY TRIAL DEMANDED

**PETITION FOR DAMAGES
PURSUANT TO MISSOURI LAW**

COME NOW Plaintiffs JAMES HOFT, JOSEPH HOFT, TGP COMMUNICATIONS, LLC, d/b/a The Gateway Pundit (“TGP”) (collectively “TGP Plaintiffs”), YAACOV APELBAUM

(“Apelbaum”), XRVISION LTD., d/b/a XRVision (“XRV”) (collectively “XRV Plaintiffs”), (referenced in the aggregate as “Plaintiffs”), and for their causes of action for libel, injurious falsehood, and interference with a business relationship and/or expectancy, pursuant to Missouri law and New York law, respectively, against Defendant DEAN STURMAN MILLER, (“Miller”) state to the Court as follows:

1. Plaintiff James Hoft is a journalist. James Hoft owns and operates Plaintiff TGP, a highly popular national political news and opinion website, visited by the public more than four million times per day. At all times relevant hereto, Plaintiffs James Hoft and TGP were Missouri citizens and residents of Missouri.

2. Plaintiff Joseph Hoft is a journalist for Plaintiff TGP. At all times relevant hereto, Joseph Hoft was a citizen and resident of Florida.

3. Plaintiff Yaacov Apelbaum is an expert in artificial intelligence and facial recognition software and its uses in the security context. He is the President and Chief Technology Officer of Plaintiff XRVision Ltd., a New York corporation specializing in facial recognition software used in security contracting. At all times relevant hereto, Plaintiffs Apelbaum and XRV were residents of the State of New York.

4. Defendant Miller is and was, at all times relevant hereto, a “fact checker” and Managing Editor” of Lead Stories¹, and a Washington citizen, residing at 1038 W. 5th Street, Port Angeles, Washington 98363, and/or 1040 W. 5th Street, Port Angeles, Washington 98363.

5. This is an action for libel, injurious falsehood, and interference with business relationships and expectancies, pursuant to Missouri law, New York Law, and Florida Law, respectively. This Court has personal jurisdiction over nonresident Defendant Miller pursuant to

¹ www.leadstories.com

V.A.M.S. § 506.500 and the minimum contacts due process requirements of the Constitution. This Honorable Court has jurisdiction because James Hoft and TGP are Missouri residents; Joseph Hoft and the XRV Plaintiffs are properly before the Court pursuant to V.A.M.S. § 507.020 and Rules 52.03, and 52.04 and/or 52.05, as Joseph Hoft's and XRV Plaintiffs' claims have a community of interest with those of James Hoft and TGP. The case involves a single article written by Defendant Miller which names and harms **all** Plaintiffs, presenting common questions of law and fact as more fully described in this suit, considered as a whole. Venue is appropriate pursuant to V.A.M.S. § 508.010.8, as **first publication** occurred in Saint Louis County, Missouri.

FACTS APPLICABLE TO ALL COUNTS

6. Miller is a “fact checker” and Managing Editor of *Lead Stories*, an online “fact check” reporting outlet.

7. As a “fact checking” outlet, Lead Stories purports to *objectively* and *authoritatively* determine the accuracy of reviewed news articles, supposedly to set the record straight and ensure the public is not misinformed:

Lead Stories is a fact checking website that is always looking for the latest **false, deceptive** or **inaccurate** stories (or media) making the rounds on the internet.²

[In deciding which articles to review, Lead Stories chooses articles because] [t]hey are **harmful** to someone. We interpret “harmful” quite broadly here, it can include anything where there is a risk of: negative health impacts, reputational damage, political decisions **based on inaccurate information**, minimizing or exaggerating real problems, emotional impact over fictional stories presented as real, **fraudsters profiting from spreading false info**, financial loss, distorted understanding of current events, people getting wrongly

² At the bottom of every page of the website. <https://leadstories.com.html> (emphasis added) (last accessed December 7, 2020).

blamed for things, **false evidence being used to support larger conspiracy theories...**³

We do not take political slant into consideration when choosing what to check. We check claims that harm (or benefit) people, causes and groups all over the political spectrum.⁴

Generally we prioritize stories **related to current events** and **new and never before seen claims** but we also tackle **older claims** sometimes, especially if they have a tendency to **keep coming back** periodically (think old hoax articles that keep getting reposted to new sites by financially motivated spammers or fake quotes attributed to a politician that keep showing up whenever that person is in the news).⁵

8. Additionally, Lead Stories has teamed with News Guard, another “fact checking” entity which purports to objectively and authoritatively rank the accuracy of news sites. NewsGuard smeared TGP Plaintiffs and Lead Stories republishes this smear at the bottom of every “fact check” written about articles by TGP Plaintiffs.

9. Each “fact check” article published by Lead Stories styles itself as the objective, authoritative, and decisive judgment on whether or not a reviewed article is truthful and accurate. This is precisely the point of being a “fact checking” outlet.

10. Lead Stories is one of nearly a dozen “fact check” entities (“FCE”) Facebook has selected as its official “fact checkers.”

11. Upon information and belief, Facebook primarily or substantially directs Lead Stories’ identification and selection of news outlets and articles to “fact check.”

³ “How We Work | Lead Stories: How we select claims and stories to fact check.” <https://leadstories.com/how-we-work.html> (emphasis added) (last accessed December 7, 2020).

⁴ *Id.*

⁵ *Id.*

12. Upon information and belief, Facebook compensates Lead Stories for its work “fact checking” posts and articles posted on Facebook.

13. Lead Stories’ work for Facebook, which includes the writings of Miller, constitutes a vital and substantial portion of Lead Stories’ revenue.⁶

14. Facebook operates extensively in Missouri. Lead Stories and Miller regularly engage in a persistent course of conduct in Missouri, and derive substantial revenue from Missouri by providing “fact check” services to Missouri through its website and through Facebook.

15. Lead Stories and Miller regularly circulate their articles in Missouri through Facebook and the internet, and Missouri citizens regularly interact with the articles of Lead Stories and Miller through Facebook and other websites on the internet.

16. Lead Stories and Miller targeted TGP Plaintiffs, citizens of Missouri, and caused reputational injury to be suffered in Missouri to citizens of Missouri. In order to profit from preventing visitors from visiting TGP Plaintiffs’ internet content, and to further its policy preferences and mute those it opposes, Lead Stories and Miller purposely and with malice targeted TGP Plaintiffs personally, and TGP by tortiously interfering with TGP Plaintiffs’ prospective business relationships with its readers and advertisers, as well as TGP Plaintiffs’ existing business prospective business relationships that stemmed from their successful and widely read website.

17. Through the use of the internet and its network, Lead Stories and Miller caused tortious injury to be suffered inside Missouri by an act outside of Missouri.

18. Lead Stories and Miller caused tortious injury in Missouri to citizens of Missouri, including by publication and injury in Missouri.

⁶ “[For FY2020] The bulk of our revenue still originates from our work done as part of Facebook’s Third-Party Fact Checking Partnership.” <https://leadstories.com/about.html> (last accessed December 8, 2020).

19. TGP Plaintiffs' causes of action against Miller arise from or relate to Miller's contact with Missouri, specifically its targeting of James Hoft, an individual, and TGP, a Missouri limited liability company, thereby invoking specific personal jurisdiction.

20. Lead Stories' website, www.leadstories.com, is an interactive website. It allows and encourages users, including users who are citizens of Missouri, to engage with the articles posted thereon through the use of sharing links. By encouraging this sharing of links, Lead Stories seeks and obtains profitable relationships with citizens of Missouri. Miller, as a writer and Managing Editor of Lead Stories, and receiving compensation from Lead Stories, benefits from and encourages the sharing of links of Lead Stories' articles, especially the links of "fact check" "reports" he authors for Lead Stories.

21. Upon information and belief, Lead Stories' website contains and promotes numerous advertisements, links, banners, and other marketing devices that encourage its readers, including citizens of Missouri, to engage with and make purchases from Lead Stories' supporters, advertisers, and partner firms, such as Facebook, Instagram, and TikTok. Lead Stories is compensated for that advertising and marketing, and these payments increase or rely on visitors who view the entire advertisement, or "click" on the offer or enticement, or make actual purchases from Lead Stories' advertisers, supporters and/or partner firms, such as Facebook, Instagram, and TikTok. As a paid writer and Managing Editor of Lead Stories, Miller is a direct beneficiary of this advertising/ marketing compensation, and is incentivized and directed by his employer to write and encourage the writing of "fact check" articles which maximize Lead Stories' compensation from such advertising/ marketing compensation.

22. Lead Stories has a similar partnership with Byte Dance, LLC (Chinese owner of social media giant TikTok), which hired Lead Stories to conduct “fact checks” on its platform.⁷

23. When Lead Stories and Miller publicly⁸ “flag” articles posted on Facebook as inaccurate, misleading, misinformation, disinformation, a hoax, fake news, and deceitful,

⁷ US Officials are concerned TikTok is using its influence to further Chinese Communist Party (“CCP”) policy, and to gain data on US Citizens. The Committee on Foreign Investment in the US, began investigating a potential sale to US investors in the fall of 2019. <https://www.bloomberg.com/news/articles/2020-07-31/trump-to-order-china-s-bytedance-to-sell-tiktok-u-s-operations> (last accessed December 8, 2020). ByteDance, LLC, which owns TikTok, is heavily connected with the CCP. https://www.theepochtimes.com/mkt_app/facebook-fact-checker-funded-by-chinese-money-through-tiktok_3610009.html?v=ul (“Bytedance TikTok’s owner, Beijing-based Bytedance, has had its own censorship controversies. In September 2019, The Guardian reported that TikTok instructed its moderators to censor certain videos that mention topics considered “sensitive” by the Chinese regime, such as the Tiananmen Square Massacre and Falun Gong, a spiritual practice that has been severely persecuted in China since 1999. The report was based on leaked documents detailing the app’s moderation guidelines. TikTok responded at the time that such policies were replaced in May 2019 and are no longer in use. But in December, the platform came under fire again for [suspending the account](#) of a U.S. teen who posted a video criticizing Beijing’s suppression of Uyghur Muslims in China’s far-western Xinjiang region. And in June, the app [closed the account](#) of a Chinese international student in New Jersey after he posted a video spoofing the Chinese national anthem. Bytedance didn’t respond to emailed questions about its fact-checker partnerships.

Pledging Party Allegiance

Chinese businesses are required [by law] to toe the party line and Bytedance founder Yiming Zhang found the hard way that even a perceived lack of enthusiasm for CCP censorship isn’t tolerated. In 2018, CCP officials shut down his humor and meme app Neihan Duanzi (translated as “Insider Jokes”). In response, Zhang issued a self-criticism letter, pledging allegiance to the party agenda. “Our product took the wrong path, and content appeared that was incommensurate with socialist core values, that did not properly implement public opinion guidance,” the letter said, according to a [translation by China Media Project](#). Zhang promised his company would focus on “strengthening the work of Party construction, carrying out education among our entire staff on the ‘Four Consciousnesses,’ socialist core values, [correct] guidance of public opinion, and laws and regulations, truly acting on the company’s social responsibility.” “Four Consciousnesses” refers to ideological directives issued by CCP leader Xi Jinping several years ago requiring party members to closely adhere to CCP ideology, support Xi, align with the party leadership, and think about the “big picture.” Zhang also committed to “further deepening cooperation with authoritative [official Party] media, elevating distribution of authoritative media content, ensuring that authoritative [official Party] media voices are broadcast to strength.” U.S. Department of Justice cited Zhang’s letter in a recent court filing, calling him a “mouthpiece” of the CCP regime.

National Security Threat

The Trump administration is reviewing Bytedance’s 2017 acquisition of Musical.ly, a Chinese video-sharing platform that was popular among American teenagers for lip-syncing videos. Bytedance shut down the platform and its millions of users were forced to switch to TikTok after the merger, starting the app’s massive growth in popularity among American youth. The administration and some members of Congress say TikTok is a national security threat because Bytedance is governed by Chinese law, which includes a stipulation that the company must make all its data controllable by the regime. Bytedance says its TikTok services are hosted in America with backups in Singapore. The CCP maintains a close relationship with the Singaporean government. U.S. Commerce Department issued an effective ban on TikTok that was supposed to take effect on Nov. 12, but the move has been blocked by courts. The administration is negotiating with Bytedance to sell its U.S. assets to Walmart and Oracle.” (Emphasis added) (last accessed December 10, 2020).

⁸ When a Facebook post is publicly flagged, the post is specially advertised by Facebook’s site to alert the public that the post has been flagged as false information by a third party “fact check” entity, such as Lead Stories.

Facebook provides an accompanying advisory to the posted article, informing the public that the posted article has been found to be inaccurate, misleading, misinformation, disinformation, a hoax, fake news, or deceitful, and providing a link to the Lead Stories “fact check” article.

24. Lead Stories and Miller do not advertise these “fact-check” articles as being *mere opinion*, but **objectively researched and authoritative truth**, for the purpose of uncovering and exposing misinformation and disinformation:

One of the aims of our fact checking is to help stop or slow down the spread of trending false information. This means we rarely publish fact checks to point out something is indeed true: if the truth is going viral by itself we are quite happy to leave it alone.⁹

Our goal is to serve our readers by publishing an article reliably **proving or disproving** a claim as quickly as possible.¹⁰

All our articles generally follow the same structure to allow for easy scanning and to avoid accidentally spreading false information.¹¹

Generally we try to stick as close as possible to the headline of the original article or video or to the text of a meme/tweet/screenshot we are fact checking, but with the addition of the words "Fact Check:" and a capitalized word to negate the meaning (when the original headline or claim is not true).

For example: "This Is An Apple" becomes "Fact Check: This Is NOT An Apple".¹²

⁹ <https://leadstories.com/about.html> (emphasis added) (last accessed December 7, 2020).

¹⁰ “How We Work | Lead Stories: How we fact check claims and stories.” <https://leadstories.com/how-we-work.html> (last accessed December 7, 2020) (emphasis added).

¹¹ “How We Work | Lead Stories: Headlines, thumbnail captions, article structure & our (lack of) rating scale.” <https://leadstories.com/how-we-work.html> (last accessed December 7, 2020).

¹² “How We Work | Lead Stories: Headlines, thumbnail captions, article structure & our (lack of) rating scale.” <https://leadstories.com/how-we-work.html> (last accessed December 7, 2020).

Our site is there for people who just want to know if something is true or not.¹³

25. Similarly, Facebook does not advertise the “fact check” articles as being mere opinion, but objectively researched truth, for the purpose of uncovering and exposing misinformation and disinformation. Facebook regularly declares articles “false information” based on the findings of “fact check” entities.

26. In fact, Facebook takes great pains to **cancel** individuals and entities which post ideas and articles on their platform, specifically to eliminate “misinformation” and “disinformation” which might “mislead” or otherwise “harm” the public.

27. Misinformation is false or inaccurate information that is communicated regardless of an intention to deceive.¹⁴

28. Disinformation is deliberately misleading or biased information; manipulated narrative or facts; propaganda.¹⁵

29. Upon information and belief, Facebook has suspended and/or permanently banned news and opinion outlets for receiving too many “fact-check” flags for purportedly being inaccurate, misleading, misinformation, a hoax, fake news, or deceitful.

30. Upon information and belief, Facebook has similarly suspended and/or permanently banned news and opinion outlets for having too many “fact check” articles written about them (**internal flagging**). Lead Stories and Miller are each aware of this.¹⁶

¹³ “How We Work | Lead Stories: Article structure.” <https://leadstories.com/how-we-work.html> (last accessed December 7, 2020) (emphasis added).

¹⁴ Definition from <https://www.dictionary.com/browse/misinformation>, last accessed December 7, 2020. Interestingly, also at that link, dictionary.com produced a fascinating video about *misinformation* – dictionary.com’s 2018 word of the year.

¹⁵ Definition from <https://www.dictionary.com/browse/disinformation>, last accessed December 7, 2020.

¹⁶ See paragraph 21 and note 16, *infra*.

31. Facebook prevents or throttles the sharing of articles which have been **publicly** or **internally flagged** by “fact checkers,” and Miller and Lead Stories know this is a consequence of their “fact check” articles, and that the prevention or throttling of the content of news and opinion outlets leads to substantial monetary loss for the outlets, including TGP Plaintiffs:

Since February 2019 we are an active part of Facebook’s partnership with third party fact checkers. Under the terms of this partnership we get access to listings of content that has been flagged as potentially false by Facebook’s systems or its users ... In addition to this we can enter our fact checks into a tool provided by Facebook and **Facebook then uses our [“fact checks”] to help slow down the spread of false information on its platform.** Facebook pays us to perform this service for them ...¹⁷

32. Upon information and belief, when Facebook includes an advisory for a flagged article, such advisories are designed to discourage users from viewing/reading the article, and such advisories are successful in discouraging a substantial portion of users – including users who would otherwise be inclined to view/read such articles, including articles by TGP Plaintiffs.

33. Upon information and belief, articles by TGP Plaintiffs have been internally and/or publicly flagged because of Facebook and Lead Stories’ and Miller’s “fact check” articles.

34. Upon information and belief, the internal and public flagging of articles is designed, over time, to discredit media outlets, and especially media outlets and authors which are not preferred by Facebook, Lead Stories, and Miller – all while giving the appearance of objectivity.

35. “Fact Check” articles are designed to discourage the public from viewing/reading subject reviewed articles.

36. Upon information and belief, Lead Stories’ and Miller’s “fact check” articles, including articles written about Plaintiffs, are designed to, over time, **discredit** non-preferred media outlets and authors including Plaintiffs, all while giving the appearance of objectivity:

¹⁷ About | Lead Stories. <https://leadstories.com/about.html> (emphasis added) (last accessed December 9, 2020).

If the fact check is about a claim by a site or page that we have repeatedly fact checked in the past or about a topic that we have written about before we may also include more information about it + links to earlier fact checks ("We wrote about reallyreliabletotallynotfakesite.com before, it is run by spammers who...").¹⁸

37. Upon information and belief, Lead Stories' "fact check" articles, including articles about Plaintiffs, are designed to discredit reviewed subject articles so as to **ensure a reader remembers that the work is discredited** – even if the readers reads only the headline or merely a portion of the "fact check" article:

The goal of our headlines is to **immediately tell our readers the conclusion** of the fact check **so that even if they don't read the rest of the article they have not been exposed to false or misleading information.** That is also the reason why we don't use question headlines. If someone only sees "Fact Check: Did X Kill Y?" they might still get it stuck in the back of their mind that maybe X really was the murderer of Y or that questions are being asked about it.¹⁹

38. Lead Stories knows and expects that "Facebook uses our ["fact checks"] to help slow down the spread of false information on its platform."²⁰

39. Upon information and belief, as a writer and Managing Editor of Lead Stories, Defendant Miller was fully aware and complicit in the conduct alleged in paragraphs 20-27.

40. Lead Stories is one of a limited number of "fact checking" entities which is accredited by the International Fact-Checking Network ("IFCN").

41. Lead Stories prominently displays its IFCN accreditation on its website.

¹⁸ "How We Work | Lead Stories: Article Structure." <https://leadstories.com/how-we-work.html> (last accessed December 7, 2020).

¹⁹ "How We Work | Lead Stories: Headlines, thumbnail captions, article structure & our (lack of) rating scale." <https://leadstories.com/how-we-work.html> (emphasis added) (last accessed December 7, 2020).

²⁰ <https://leadstories.com/about.html> (last accessed December 8, 2020).

42. To be accredited by the IFCN, “fact checking” entities must agree to, and abide by, the IFCN Code of Principles, which primarily consist of the following commitments:

- a. Nonpartisanship and Fairness;
- b. Transparency of Sources;
- c. Transparency of Funding & Organization;
- d. Standards and Transparency of Methodology; and
- e. An Open and Honest Corrections Policy.

43. On its website, Lead Stories advises its readers that it is objective, that it is unbiased, objective, authoritative, that they use the same standards for every “fact check,” that they follow the same process for every “fact check” and let the evidence dictate the conclusions.

44. As part of the IFCN, Lead Stories claims it does not advocate or take policy positions on the issues they fact check.

45. As part of the IFCN, Lead Stories advertises itself as adhering to the IFCN’s principles, including but not limited to:

Nonpartisanship and Fairness

2.1 The Applicant fact-checks using the same high standards of evidence and judgment for equivalent claims regardless of who made the claim.

2.2 The applicant does not unduly concentrate its fact-checking on any one side, considers the reach and importance of claims it selects to check and publishes a short statement on its website to set out how it selects claims to check.

2.3 The applicant discloses in its fact checks relevant interests of the sources it quotes where the reader might reasonably conclude those interest could influence the accuracy of the evidence provided. It also discloses in its fact checks any commercial or other such relationships it has that a member of the public might reasonably conclude could influence the findings of the fact check.

2.4 The applicant is not as an organization affiliated with nor declares or shows support for any party, any politician or political candidate, nor does it advocate for or against any policy positions on any issues save for transparency and accuracy in public debate.

2.5 The applicant sets out its policy on non-partisanship for staff on its site. Save for the issues of accuracy and transparency, the applicant's staff do not get involved in advocacy or publicise their views on policy issues the organization might fact check in such a way as might lead a reasonable member of the public to see the organization's work as biased.

Sourcing

3.1 The applicant identifies the source of all significant evidence used in their fact checks, providing relevant links where the source is available online, in such a way that users can replicate their work if they wish. In cases where identifying the sources would compromise the source's personal security, the applicant provides as much detail as compatible with the source's safety.

3.2 The applicant uses the best available primary, not secondary, sources of evidence wherever suitable primary sources are available. Where suitable primary sources are not available, the applicant explains the use of a secondary source.

3.3 The applicant checks all key elements of claims against more than one named source of evidence save where the one source is the only source relevant to on the topic.

3.4 The applicant identifies in its fact checks the relevant interests of the sources it uses where the reader might reasonably conclude those interests could influence the accuracy of the evidence provided.

Funding and Organization Transparency

4.1 Applicants that are independent organizations have a page on their website detailing each source of funding accounting for 5% or more of total revenue for its previous financial year. This page also sets out the legal form in which the which the organization is registered (e.g., as a non-profit, as a company, etc.).

Methodology

5.1 The applicant publishes on its website a statement about the methodology it uses to select, research, write and publish its fact checks.

5.2 The applicant selects claims to check based primarily on the reach and importance of the claims, and where possible explains the reason for choosing the claim to check.

5.3 The applicant sets out in its fact checks relevant evidence that appears to support the claim as well as relevant evidence that appears to undermine it.

5.4 The applicant in its fact checks assesses the merits of the evidence found using the same high standards applied to evidence on equivalent claims, regardless of who made the claim.

5.6 The applicant encourages users to send in claims to check, while making it clear what readers can legitimately expect will be fact-checked and what isn't fact-checkable.

Corrections Policy

6.2 The policy sets out clear definitions of what it does and does not cover, how major mistakes, especially those requiring revised conclusions of a fact check, are handled, and the fact that some complaints may justify no response. This policy is adhered to scrupulously.

6.3 Where credible evidence is provided that the applicant has made a mistake worthy of correction, the applicant makes a correction openly and transparently, seeking as far as possible to ensure that users of the original see the correction and the corrected version.

Lead Stories is a verified signatory of the International Fact-Checking Network fact-checkers' Code of Principles and every year our compliance is verified by an IFCN assessor.²¹

At Lead Stories we look for harmful viral misinformation to fact check no matter the ideological slant or bias it has (if any)

²¹ <https://leadstories.com/code-of-principles.html> (last accessed December 10, 2020).

and we use the same process and article format for each fact check.²²

46. Neither Lead Stories nor Miller follow the above IFCN principles, despite having incorporated those policies into their editing policies and methodologies – and published this fact on the Lead Stories website. Specifically, Lead Stories and Miller have violated their own editorial and corporate policies, as well as that of the IFCN in one or more of the following ways, including but not limited to:

- a. regularly and deliberately fail to fairly select subject outlets and articles for “fact checks,” disproportionately targeting non-liberal and Trump-supporting outlets and articles;
- b. regularly and deliberately fail to disclose in their articles how they came to select the subject article to review;
- c. are members of the Coronavirus Facts Alliance, a network of “fact check” entities which engage fear-mongering, pushing mass hysteria about COVID-19, and **advocating** for draconian policy prescriptions related thereto;
- d. regularly and deliberately work to rehabilitate the image of preferred leftist politicians – especially Joe Biden and his family – leading up to elections;
- e. failed to use primary sources in Miller’s November 3, 2020 defaming Plaintiffs;
- f. where they do cite to primary sources, the sources are often poached from “fact check” peers at other “fact check” entities, thereby creating a cone of

²² *Id.*

conformity to push the public toward ideologically consistent propaganda messaging;

- g. failed in Miller's November 3, 2020 "fact check" article defaming Plaintiffs, in that Miller failed to check any of Plaintiffs' "claims" against more than one named source;
- h. regularly and deliberately fail to check claims against multiple sources;
- i. regularly and deliberately fail to identify the relevant interests of the sources they use where the reader might reasonably conclude those interests could influence the accuracy of the evidence provided;
- j. regularly and deliberately fail to disclose the level of control its clients, such as Facebook, exert over their content selection, thereby misleading their readers;
- k. regularly and deliberately fail to fully disclose its biased methodology for selecting, researching, writing, and publishing "fact checks" on its website;
- l. regularly and deliberately fail in their "fact check" articles to set out facts favorable to its subject reviewed articles;
- m. regularly and deliberately fail to assess the merits of the evidence found using the same high standards applied to evidence on equivalent claims, regardless of who made the claim;
- n. deliberately failed to disclose to readers in the November 3, 2020 "fact check" that Miller lacked the industry knowledge to assess the credibility of Plaintiffs, and that Miller deliberately abstained from seeking out

knowledgeable experts in the field, in a deliberate effort to discredit and defame Plaintiffs; and

- o. upon information and belief, Miller failed to update its his November 3, 2020 article with responses he received from Apelbaum's former employers, verifying employment.

47. In fact, Lead Stories deliberately and disproportionately targets conservative news outlets and pundits – especially TGP Plaintiffs– to provide Facebook and other social media outlets an “independent” basis to censor and harass TGP Plaintiffs, and to separate TGP Plaintiffs from their readers and advertisers. This is done deliberately, to cause financial harm to TGP Plaintiffs.

48. Ultimately, Lead Stories, Miller, and Facebook, have and continue to endeavor to both steer readers, web traffic, and advertisers away from TGP Plaintiffs, and drive them out of business.

49. At all relevant times, Miller was a “fact checker” and Managing Editor of Lead Stories.

50. As a “fact checker” /writer and **Managing Editor** of Lead Stories, Miller was to *adhere to*, and was responsible for *advising and ensuring other fact checkers adhered to* Lead Stories' writing/editorial policies and methodologies as well as the Code of Principles of the IFCN, including but not limited to all of the policies, methodologies and principles mentioned herein.

51. Plaintiff Yaacov Apelbaum is a software engineer and an expert in cyber security, cutting edge R&D, HLS intelligence and OSINT platforms, and AI based data and video analytics, technology. Apelbaum is the holder of multiple US Technology Patents and a published author.

52. Apelbaum founded Plaintiff XRVision in 2015 and currently serves as Head of Engineering and Chief Technology Officer (“CTO”). XRVision is a security firm, specializing in

cutting-edge mobile and wearable AI-based analytics and award winning intelligent cyber security IoT technology. It solves some of the toughest analytics and cyber security challenges that law enforcement and government agencies face.

53. Prior to co-founding XRV, Apelbaum was the Head of Engineering and CTO for the Safe/Smart City product line in one of the world's leading safe/smart city companies, offering comprehensive and integrated platforms in a wide range of analytics, homeland security, critical infrastructure, OSINT, and smart/safe city spaces.

54. Apelbaum's technology expertise include leading R&D and Center of Excellence technology teams in developing and delivering, Big Data, video analytics, OSINT engines, IoT, and cyber security solutions for urban surveillance and management, critical infrastructure, border protection, and national security. He led teams of engineers responsible for implementing multi-billion-dollar SafeCity/SmartCity initiatives throughout the world via platforms such as CityMIND, FalconEye, and OpenMind.²³

55. Apelbaum also maintains a blog and publishes articles on numerous topics, including but not limited to news analysis, politics, and current events. *See* apelbaum.wordpress.com.

56. In October of 2020, the New York Post published a series of articles about a laptop ("Laptop") owned by Hunter Biden – son of Presidential Candidate Joe Biden – which Hunter Biden failed to retrieve after dropping it off at a Delaware computer repair shop.

²³ CityMIND. <https://blogs.cisco.com/digital/agt-and-ciscos-new-ioe-solutions-for-smart-cities-city-safety-and-traffic-incident-management>.
FalconEye. <https://gulfnnews.com/uae/government/abu-dhabi-launches-falcon-eye-1.1861841>.
OpenMind. <https://www.itworld.com/article/2916816/business-intelligence/how-the-military-harvests-web-for-situational-awareness.html>.

57. After Hunter legally abandoned the computer, the owner of the repair shop legally accessed the Laptop's contents, and discovered documents and images of what appeared engagement in criminal activity and sex acts with underage girls. The repair shop owner alerted the FBI, who seized the Laptop in December of 2019.

58. Before turning the Laptop over to the FBI, the repair shop owner copied the hard drive, and gave it to Apelbaum for authentication and analysis. **Apelbaum utilized the XRRvision software to analyze the content of the drive and generate various reports about the identity of the of individuals involved in among other things: sexual child abuse, child neglect, purchases and use of hard drugs, solicitation and trafficking prostitutes, tax evasions, and nefarious foreign business dealings.**

59. The Laptop is important because it demonstrates Joe Biden knew about his son's illegal activity and collaborated with him to leverage his political influence for profit. For years, Mr. Biden claimed he was not involved in his son's overseas business ventures. However, emails recovered from the Laptop revealed that Joe Biden not only knew about his son's dealings, profited from them, and intervened on his son's behalf using the power and influence of his office.²⁴

²⁴ Notably, most of the media refused to report on the Post's scoop. Glenn Greenwald, the journalist who broke the Snowden story several years ago, resigned to protest his own media outfit's cone of silence. *Twitter* even held the Post's twitter account hostage unless it deleted its tweets containing its coverage of the Laptop. See <https://nypost.com/2020/10/16/twitter-still-holding-the-posts-account-hostage-over-hunter-biden-links/> (last accessed December 8, 2020).
Select Coverage of the Laptop
<https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/> (last accessed December 8, 2020).
<https://nypost.com/2020/10/14/hunter-biden-emails-show-leveraging-connections-with-dad-to-boost-burisma-pay/> (last accessed December 8, 2020).
<https://nypost.com/2020/10/21/hunter-biden-laptop-linked-to-fbi-money-laundering-probe-report/> (last accessed December 8, 2020).
<https://nypost.com/2020/10/22/hunter-biz-partner-confirms-e-mail-details-joe-bidens-push-to-make-millions-from-china/> (last accessed December 8, 2020).
<https://nypost.com/2020/10/16/hunter-biden-email-detailing-chinese-ties-confirmed-by-source-report/> (last accessed December 8, 2020).

60. For example, Hunter Biden, though lacking any experience or knowledge of the energy industry, somehow gained a seat on the board of Burisma, a Ukrainian oil and gas company, and earning in excess of half a million dollars annually in the process. Emails and text messages on the Laptop indicate that Burisma officers **requested** Hunter Biden contact his father to help, after Ukrainian authorities began investigating the company for fraud and bribery. Other documents on the Laptop show that Burisma **had near real-time access to classified White House policy briefings and intelligence regarding Joe Biden's Ukraine activity.**

61. By his own braggadocio, Joe Biden himself admitted on video to personally intervening in Ukraine's investigation of Burisma while he was Vice President of the United States.²⁵ Joe Biden admitted he spoke directly to the President and Prime Minister of Ukraine and threatened to withhold a \$1 Billion US loan guarantee to Ukraine, unless they fired Prosecutor General Viktor Shokin – the prosecutor investigating Burisma:

I said, I'm going to be leaving in – what was it, six? – I looked [gesturing to watch] I said I'm leaving in six hours. If the prosecutor's not fired, you're not getting the money. Well, son of a bitch. He got fired.²⁶

62. The Laptop's contents indicated Joe Biden was engaged in business ventures with his son all over the globe. As a result of the Laptop, Joe Biden's business partner came forward as a whistleblower, and also explained a business arrangement in China.

63. Because of the explosive content on the Laptop and its implications for a prospective President of the United States, the provenance of the Laptop itself became an issue.

64. TGP Plaintiffs turned to expert XRV Plaintiffs to verify the provenance of the Laptop as belonging to Hunter Biden. Through a forensic analysis of the content, XRV Plaintiffs,

²⁵ https://www.youtube.com/watch?v=UXA--dj2-CY&feature=emb_logo (last accessed December 8, 2020).

²⁶ *Id.*

using, *inter alia*, XRV technology, were able to confirm that the Laptop content indeed belonged to Hunter Biden.

65. Part of the evidence used to confirm the provenance of the Laptop consisted of pornographic videos and photos found on the Laptop, which were also **shared by Hunter Biden** through a public pornographic website called PornHub.com. There were numerous other photos, audio, and video on the Laptop hard drive which were not placed on PornHub.com. Using XRV facial recognition, object classification, and other analytic technology, XRV Plaintiffs were able to confirm that the photos were authentic and that they were uploaded by Hunter Biden. Some of the uploaded photos also included the naked images of his sister-in-law Hallie Biden.

66. On October 29-30, 2020 Plaintiffs wrote news articles about the content of the hard drive, including the fact that Hunter Biden had a PornHub.com account and a public page, and used it to showcase his full anatomy to the world. *See* <https://www.thegatewaypundit.com/2020/10/huge-breaking-exclusive-hunter-biden-pornhub-account-uploaded-personal-porn-including-family-members/> (TGP Plaintiffs' article) and <https://apelbaum.wordpress.com/2020/10/29/hunter-bidens-pornhub-page/> (XRV Plaintiffs' article). In their article, TGP Plaintiffs credited XRV Plaintiffs as providing technical and analytics assistance, and utilized the expertise of XRV Plaintiffs to verify their claims.

67. TGP Plaintiffs frequently collaborate with XRV Plaintiffs to conduct research, analyze evidence, and write articles. TGP Plaintiffs collaborated with XRV Plaintiffs for the Laptop series of articles published on TheGatewayPundit.com in October and November, 2020.

68. In fact, TGP Plaintiffs' readers recognize XRV Plaintiffs in their role as journalists and technical expert collaborating with TGP Plaintiffs, as sources of accuracy, technological excellence, legitimacy, integrity, honesty, competence, and reliability.

69. As the founder, sole owner, and driving force for TheGatewayPundit.com for nearly twenty (20) years, Plaintiff James Hoft's name, and TheGatewayPundit.com brand are synonymous with TGP's readers. James Hoft is regularly interviewed on television, radio and in print. James Hoft's is the face and name which provide credibility to the TGP. The public and TGP's readers recognize James Hoft *as THE Gateway Pundit*. Any attack on the credibility of one directly impacts the credibility of the other, and a loss of good will, respect, and patronage from readers for one causes a commensurate loss of good will, respect, and patronage for the other.

70. In response to TGP Plaintiffs' articles, on November 3, 2020, Defendant Miller wrote a "fact check" article, which attacked Plaintiffs' work and accused Plaintiffs by name of using fraudulent evidence and methods to verify the authenticity of the Laptop photos. See Exhibit 1, attached and incorporated by reference in its entirety.

71. Specifically, in Exhibit 1, Miller made the following defamatory statements, allegations, and imputations:

- a) the work of TGP Plaintiffs was based on fraudulent evidence;
- b) TGP Plaintiffs are liars who intentionally lied about the authenticity of its evidence and expert collaborators XRV Plaintiffs' technology and technical abilities in order to gain greater credibility with its readers and earn additional advertising revenue;
- c) XRV Plaintiffs are frauds peddling non-existent technology;
- d) TGP Plaintiffs collaborate with frauds, such as XRV Plaintiffs, peddling non-existent technology;
- e) Plaintiff Apelbaum is posing as a cyber security expert, when in fact he is not;

- f) XRV Plaintiffs lack the technology (“No Tech”) and technical skills to determine the authenticity of the Laptop photos or prove Hunter Biden has a Pornhub account; and
- g) Apelbaum’s LinkedIn resume is a fabrication.



72. All of these statements and imputations by Miller are unequivocally and provably false.

73. Notably, Miller recklessly based his defamatory statements on his own paltry investigation of a handful of websites, including LinkedIn.com. Miller did not, for example, seek out the knowledge of other experts in the field of cyber security.

74. In his article, Miller mentions that he sent a communication to multiple past employers of Plaintiff Apelbaum. However, given that he didn’t know one way or the other, rather than waiting for a response from the prior employers, Miller recklessly published the article,

promising to “update this report, as appropriate, when they reply.” As of December 8, 2020, no update has been posted.

75. Miller’s entire “fact check” “report” merely consisted of his own ham-handed, easy-chair internet sleuthing, and it is written in such a manner as to deliberately attempt to subject Plaintiffs to the scorn and derision of the public, readers and potential clients, to damage the credibility of Plaintiffs and the confidence placed in Plaintiffs by the public, readers and clients, and to reduce the public’s esteem for Plaintiffs. Miller’s assemblage of statements is written to communicate that Plaintiffs are huckster carnival barkers.

76. Miller’s “report” was malicious, wrongful and improper because both he and Lead Stories knew and intended – or were substantially certain – that it would be used by Facebook as a future justification to suspend or ban TGP Plaintiffs’ Facebook profile, and to discredit and defame all Plaintiffs, damaging Plaintiffs relationships with readers, advertisers, and clients, as well as prospective future readers, advertisers, and clients.

77. Miller either knew his statements, allegations, and imputations were false, or he recklessly made them when he had serious doubt as to their truth or falsity.

78. Pursuant to protocol established by Lead Stories for appealing “fact check” “reports” such as Millers’, counsel for Plaintiffs sent an email directly to Alan Duke, co-founder and Editor in Chief for Lead Stories, explaining to him that Miller’s article was incorrect and defamatory and demanding it be retracted. *See **Exhibit 2***, attached and incorporated by reference to this Petition.

79. Instead of acknowledging Miller’s failure to accurately “fact check” his own baseless statements and imputations regarding Plaintiffs, Duke refused to respond. To this day, no retraction has been issued.

80. Tellingly, however, shortly after Plaintiffs demanded a retraction, Lead Stories made it impossible for its users to search for any of Miller's articles via the search feature on its website. Searching for "Dean Miller," users only retrieve Miller's bio. This act is a practical demonstration that Miller's article is false, yet neither Lead Stories, nor Miller, have retracted it or published a sufficient correction.

81. Miller maliciously and falsely attacked Plaintiffs for the financial gain of himself and Lead Stories.

82. Lead Stories and Miller each stand to gain financially from Miller's false attack on Plaintiffs. They profit from their contractual relationship with Facebook, TikTok, Instagram, and other partners, and they have an incentive to fulfill contractual obligations with these partners to locate and label "falsehoods," "hoaxes," "misinformation," "disinformation," and "false information."

83. By terming Plaintiffs – prominent journalists, media entities and cyber security experts and firms – as frauds who utter falsehoods and conjure up hoaxes that impair the national interest, Miller and Lead Stories also advance their patent political and/or policy interest in promoting a leftist agenda. Miller and Lead Stories seek to discredit and defame non-preferred, non-leftist persons and entities, such as Plaintiffs, in order to silence their speech and drive them out of business.

84. Lead Stories is an organization that knowingly employs reporters like Miller who have a provable and demonstrable left-leaning political bias and an axe to grind with non-preferred and non-leftist persons and entities, such as Plaintiffs.

85. Upon information and belief, Miller has a provable history of reckless, irresponsible, malicious, and defamatory reporting.

86. Lead Stories and Miller targeted Plaintiffs and deliberately intended to discredit their reporting on Hunter Biden, Joe Biden, and the Laptop.

87. Upon information and belief, Lead Stories, Facebook, TikTok, and Miller were each in communication with persons closely affiliated with the Democratic Party, who have encouraged Lead Stories and Miller to “fact check” articles, and thereby discredit reporting adverse to the Democratic ‘party line’ regarding the Laptop and the Bidens, including articles by Plaintiffs.

88. Upon information and belief, Facebook has incorrectly and maliciously labeled one or more Plaintiffs as “Hate Agents,” and has encouraged its stable of “fact check” contractors, including but not limited to Lead Stories and Miller, to focus upon, attack, and work towards discrediting Plaintiffs’ work. Lead Stories and Miller have a contractual relationship with Facebook and a patent interest in satisfying its mission to not only police Facebook posts, but to attack those disfavored by Facebook, including Plaintiffs.

89. Lead Stories and Miller actually knew and know that Miller’s accusations, statements, and imputations, were/are false. They have each been alerted to that fact by Plaintiffs’ demand for retraction. Both Lead Stories and Miller rely upon no expert and no evidence but the sham investigation by Miller.

90. The actual malice of Lead Stories and Miller is further evidenced by their failure to retract the “fact check” “report” in derogation of accepted journalistic standards and those articulated by the IFCN, an organization to which Lead Stories is a signatory, as previously alleged in this Petition.

91. Lead Stories and its Managing Editor, Miller, do not like Plaintiffs, their political viewpoints, or their support for President Trump.

92. Upon information and belief, Lead Stories condones Facebook's incorrect labeling of one or more Plaintiffs as a "Hate Agent."

93. Lead Stories and Miller published his false and defamatory November 3, 2020 article knowing full well that it would be used by Facebook, NewsGuard, other news outlets, and other fact checking entities to attack Plaintiffs, make Plaintiffs appear to be frauds, subject Plaintiffs to scorn, ridicule, disrepute, opprobrium, and damage Plaintiffs' relationships with readers, advertisers, and clients.

94. Upon information and belief, Lead Stories and Miller voluntarily selected Plaintiffs' articles for "fact checking" and they were not required, by contract or request. In this way, Lead Stories and Miller voluntarily chose to attack Plaintiffs and to interfere with Plaintiffs relationships with their readers, advertisers and clients, and to impede Plaintiffs' future business opportunities.

95. Upon information and belief, Lead Stories and Miller could have adequately published their November 3, 2020 article without reference to Plaintiffs, but instead chose to identify Plaintiffs by name and make them the centerpiece of the article.

96. Miller published his November 3, 2020 article with Actual and Common Law Malice.

CAUSES OF ACTION

COUNT I – INTENTIONAL INTERFERENCE WITH CURRENT AND PROSPECTIVE BUSINESS RELATIONS

**Brought by TGP Communications, LLC,
James Hoft, and Joseph Hoft Against Dean Miller**

COME NOW Plaintiffs TGP Communications, LLC d/b/a TheGatewayPundit.Com ("TGP"), James Hoft, and Joseph Hoft (collectively "Plaintiffs"), and for their cause of action of

intentional interference with contractual relations against Defendant Dean Miller (“Miller”), state to the Court as follows:

97. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

98. At all times relevant to this action, James Hoft was the sole owner of TGP. At all times relevant to this action, TGP had a contract with a firm that brokered advertising for TGP.

99. At all times relevant to this action, Miller had knowledge that James Hoft and Joseph Hoft each derived their income through TGP, and that TGP derived its revenue through advertising based upon the number of readers frequenting its website, which in turn relies upon readers’ faith and trust in Plaintiffs’ work.

100. At all times relevant to this action, Miller had knowledge that Plaintiffs rely upon their credibility and reputation for truthfulness and truthful reporting of news and opinions, and that by accusing Plaintiffs of fraud and making the statements, allegations, and imputations found in paragraph 71, above, TGP’s brand would be damaged, James Hoft’s personal and professional reputation would be damaged, Joseph Hoft’s personal and professional reputation would be damaged, and the result would be a reduction in readership and advertisers, and a corresponding loss in advertising income. These facts known to Miller were sufficient, if followed by reasonable inquiry, to have led to a complete disclosure of contractual relations and rights of the Plaintiffs.

101. In writing his “report”/article found at **Exhibit 1**, Miller intentionally interfered with Plaintiffs’ relationships with readers and advertisers by making the statements, allegations, and imputations (“Misrepresentations of Fact”) found in paragraph 71, above. These statements were unequivocally and provably false.

102. Miller's conduct was an intentional act which he knew would be used by Lead Stories' client partners, such as Facebook, as justification to ban or suspend Plaintiffs in the future, and which he knew would be seen by Plaintiffs' readers and advertisers, who would view the Misrepresentations of Fact and thereby reduce the frequency of readership and advertising, or cease reading and/or advertising altogether.

103. Specifically, Miller's Misrepresentations of Fact were an improper means of seeking to further his interests, those of his employer Lead Stories, and those of Lead Stories client-partners, such as Facebook and TikTok, evidencing the complete absence of any justification for Miller's conduct.

104. Miller's Misrepresentations of Fact were also improper and wrongful because they were defamatory.

105. Miller's Misrepresentations of Fact were also improper and wrongful because they were intended to harm Plaintiffs out of political motivation. Miller sought to hinder Plaintiffs' ability to operate and derive revenue on its own site, and on Lead Stories' client partners' platforms, including but not limited to Facebook and Tiktok, seeking to diminish or eliminate non-preferred, non-leftist opinion with which Miller disagreed. Instead of fighting free speech with free speech, Miller leveraged Lead Stories' financial and influential position to discredit Plaintiffs and erode their ability to speak. Miller was not justified in publishing his November 3, 2020 article.

106. As a result of Miller's conduct, Plaintiffs have lost current readers and advertisers, and Plaintiffs will continue to lose prospective readers and advertisers in the future upon reading Miller's Misrepresentations of Fact and defamatory statements, allegations and imputations.

107. But for Miller's November 3, 2020 article, Plaintiffs would not have suffered damages, significant pecuniary harm, and other damages resulting from reduced readership, and diminished credibility, in an amount in excess of \$25,000.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendant's defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT II – INTENTIONAL INTERFERENCE WITH
CURRENT AND PROSPECTIVE BUSINESS RELATIONS
Brought by XRVision, Ltd. and Yaacov Apelbaum Against Dean Miller

COME NOW Plaintiffs XRVision, Ltd. ("XRV") and Yaacov Apelbaum ("Apelbaum") (collectively "Plaintiffs"), and for their cause of action of intentional interference with current and prospective business relations against Defendant Dean Miller ("Miller"), state to the Court as follows:

108. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

109. At all times relevant to this action, Yaacov Apelbaum was the President, CTO and owner of XRV.

110. At all times relevant to this action, Miller had knowledge that Apelbaum derived his income through XRV, and that XRV derived its revenue through the selling of its cyber security

products and service, which in turn relies upon clients' and prospective clients' faith and trust in Plaintiffs' product.

111. At all times relevant to this action, Miller knew or could have reasonably known that Apelbaum derived income through advertising and readership through journalism, which in turn relies upon readers' and prospective readers' faith and trust in Apelbaum's reporting and XRV's exceptional reputation for excellence in cyber security.

112. At all times relevant to this action, Miller had knowledge that Plaintiffs rely upon their credibility and reputation for truthfulness, honesty, and technological excellence, and that by accusing Plaintiffs of fraud and making the statements, allegations, and imputations found in paragraph 71, above, XRV's brand would be damaged, Apelbaum's personal and professional reputation would be damaged, and the result would be a reduction in readers, advertisers and clients, and a corresponding loss in income. These facts known to Miller were sufficient, if followed by reasonable inquiry, to have led to a complete disclosure of contractual relations and rights of the Plaintiffs.

113. In writing his "report"/article found at **Exhibit 1**, Miller intentionally interfered with Plaintiffs' relationships with readers, advertisers, clients and prospective readers, advertisers and clients by making the statements, allegations, and imputations ("Misrepresentations of Fact") found in paragraph 71, above. These statements were unequivocally and provably false.

114. Miller's conduct was an intentional act which he knew would be used by Lead Stories' client partners, such as Facebook, as justification to ban or suspend Plaintiffs in the future, and which he knew would be seen by Plaintiffs' readers, advertisers and clients, who would view the Misrepresentations of Fact and thereby reduce the frequency of readership, advertising and or patronage; cease reading, advertising, or transacting business altogether; or that it would

discourage prospective readers, advertisers and clients from reading, advertising, and/or purchasing Plaintiffs, content and products, respectively.

115. Specifically, Miller's Misrepresentations of Fact were an improper means of seeking to further his interests, those of his employer Lead Stories, and those of Lead Stories client-partners, such as Facebook and TikTok, evidencing the complete absence of any justification for Miller's conduct.

116. Miller's Misrepresentations of Fact were also improper and wrongful because they were defamatory.

117. Miller's Misrepresentations of Fact were also improper and wrongful because they were intended to harm Plaintiffs out of political motivation. Miller sought to hinder Plaintiffs' ability to operate and derive revenue on its own site, and on Lead Stories' client partners' platforms, including but not limited to Facebook and Tiktok, seeking to diminish or eliminate non-preferred, non-leftist opinion with which Miller disagreed. Instead of fighting free speech with free speech, Miller leveraged Lead Stories' financial and influential position to discredit Plaintiffs and erode their ability to speak. Miller was not justified in publishing his November 3, 2020 article.

118. As a result of Miller's conduct, Plaintiffs have lost current readers, advertisers, and clients, and Plaintiffs will continue to lose prospective readers, advertisers, and clients in the future upon reading Miller's Misrepresentations of Fact and defamatory statements, allegations and imputations.

119. But for Miller's November 3, 2020 article, Plaintiffs would not have suffered damages, significant pecuniary harm, and other damages resulting from reduced readership, diminished credibility, and diminished sales in an amount in excess of \$25,000.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendant's defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT III – LIBEL WITH ACTUAL MALICE

**Brought by TGP Communications, LLC,
James Hoft, and Joseph Hoft Against Dean Miller**

COME NOW Plaintiffs TGP Communications, LLC d/b/a TheGatewayPundit.Com ("TGP"), James Hoft, and Joseph Hoft (collectively "Plaintiffs"), and for their cause of action of intentional interference with contractual relations against Defendant Dean Miller ("Miller"), state to the Court as follows:

120. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

121. As stated in paragraph seventy-one (71) above, Miller's November 3, 2020 published "report" contains numerous defamatory statements, allegations and imputations ("Statements") about Plaintiffs.

122. These Statements are defamatory on their face, in that they definitively allege Plaintiffs are frauds and hucksters, deliberately trying to mislead the public about XRV Plaintiffs' technology and technical skill in order to publish sensational and salacious material known to be false.

123. These Statements are false.

124. These Statements are capable of a defamatory meaning because, when read by a reasonable reader in context, the aforementioned specific charges tend to, in no particular order:

- a. subject Plaintiffs to hatred, ridicule, and contempt;
- b. diminish Plaintiffs' standing in the community; and
- c. denigrate Plaintiffs' fitness as a news outlet, news commentators, and as journalists.

125. The Statements are defamatory per se because they are defamatory on their face without any reference to outside material.

126. Miller published his Statements and false accusations therein as fact.

127. Miller did not publish his Statements and false accusations as mere parody or opinion.

128. Miller's Statements were unprivileged.

129. Miller published the Statements either maliciously – because he dislikes Plaintiffs and disagrees with Plaintiffs' political views, support for President Trump, and negative reporting about the Democratic Party, Joseph Biden, and Hunter Biden, among others – or with reckless disregard of the truth or falsity of the Statements, at a time when he had doubts as to whether the Statements were true or false.

130. Even though the Statements are defamatory per se and actionable irrespective of allegations of special harm, but for Miller's Statements, Plaintiffs would not have suffered significant pecuniary damages. As a direct and proximate cause of Miller's defamatory

Statements, Plaintiffs' reputations and brand have been damaged in an amount in excess of twenty-five thousand dollars (\$25,000).

131. Defendant's defamatory Statements have been either published either with actual malice or with reckless disregard of their truth or falsity, thus warranting an award of punitive damages that will punish and deter Miller and others from like conduct.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendant's defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT IV – LIBEL WITH ACTUAL MALICE
Brought by XRVision, Ltd. and Yaacov Apelbaum Against Dean Miller

COME NOW Plaintiffs XRVision, Ltd. ("XRV") and Yaacov Apelbaum ("Apelbaum") (collectively "Plaintiffs"), and for their cause of action of intentional interference with contractual relations against Defendant Dean Miller ("Miller"), state to the Court as follows:

132. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

133. As stated in paragraph seventy-one (71) above, Miller's November 3, 2020 published "report" contains numerous defamatory statements, allegations and imputations ("Statements") about Plaintiffs.

134. These Statements are defamatory on their face, in that they definitively allege Plaintiffs are frauds and hucksters, deliberately trying to mislead the public, clients and prospective clients that they possess cyber security and related skills and products which are fraudulent.

135. These Statements are false.

136. These Statements are capable of a defamatory meaning because, when read by a reasonable reader in context, the aforementioned specific charges tend to, in no particular order:

- a. subject Plaintiffs to hatred, ridicule, and contempt;
- b. diminish Plaintiffs' standing in the community; and
- c. denigrate Plaintiffs' fitness as a cyber security firm, and as a cyber security expert, news commentators, and journalist.

137. The Statements are defamatory per se because they are defamatory on their face without any reference to outside material.

138. Miller published his Statements and false accusations therein as fact.

139. Miller did not publish his Statements and false accusations as mere parody or opinion.

140. Miller's Statements were unprivileged.

141. Miller published the Statements either maliciously – because he dislikes Plaintiffs and disagrees with Plaintiffs' political views, support for President Trump, and negative reporting about the Democratic Party, Joseph Biden, and Hunter Biden, among others – or with reckless disregard of the truth or falsity of the Statements, at a time when he had doubts as to whether the Statements were true or false.

142. Even though the Statements are defamatory per se and actionable irrespective of allegations of special harm, but for Miller's Statements, Plaintiffs would not have suffered

significant pecuniary damages. As a direct and proximate cause of Miller's defamatory Statements, Plaintiffs' reputations and brand have been damaged in an amount in excess of twenty-five thousand dollars (\$25,000).

143. Defendant's defamatory Statements have been either published either with **actual** malice or with reckless disregard of their truth or falsity, thus warranting an award of punitive damages that will punish and deter Miller and others from like conduct.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendant's defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT V – LIBEL WITH COMMON LAW MALICE
Brought by TGP Communications, LLC,
James Hoft, and Joseph Hoft, Against Dean Miller

COME NOW Plaintiffs TGP Communications, LLC d/b/a TheGatewayPundit.Com ("TGP"), James Hoft, and Joseph Hoft (collectively "Plaintiffs"), and for their cause of action of intentional interference with contractual relations against Defendant Dean Miller ("Miller"), state to the Court as follows:

144. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

145. As stated in paragraph seventy-one (71) above, Miller's November 3, 2020 published "report" contains numerous defamatory statements, allegations and imputations ("Statements") about Plaintiffs.

146. These Statements are defamatory on their face, accusing Plaintiffs of deliberately disseminating false information. They definitively allege Plaintiffs are frauds and hucksters, deliberately trying to mislead the public about XRV Plaintiffs' technology and technical skill in order to publish sensational and salacious material known to be false.

147. These Statements were false.

148. These Statements are defamatory on their face, in that they definitively allege Plaintiffs are frauds and hucksters, deliberately trying to mislead the public about XRV Plaintiffs' technology and technical skill in order to publish sensational and salacious material known to be false.

149. These Statements are false.

150. These Statements are capable of a defamatory meaning because, when read by a reasonable reader in context, the aforementioned specific charges tend to, in no particular order:

- a. subject Plaintiffs to hatred, ridicule, and contempt;
- b. diminish Plaintiffs' standing in the community; and
- c. denigrate Plaintiffs' fitness as a news outlet, news commentators, and as journalists.

151. The Statements are defamatory per se because they are defamatory on their face without any reference to outside material.

152. Miller published his Statements and false accusations therein as fact.

153. Miller did not publish his Statements and false accusations as mere parody or opinion.

154. Miller's Statements were unprivileged.

155. Miller's Statements and false accusations were published with **common law malice**.

156. Even though the Statements are defamatory per se and actionable irrespective of allegations of special harm, but for Miller's Statements, Plaintiffs would not have suffered significant pecuniary damages. As a direct and proximate cause of Miller's defamatory Statements, Plaintiffs' reputations and brand have been damaged in an amount in excess of twenty-five thousand dollars (\$25,000).

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses, and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendant's defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT VI – LIBEL WITH COMMON LAW MALICE
Brought by XRVision, Ltd. and Yaacov Apelbaum Against Dean Miller

COME NOW Plaintiffs XRVision, Ltd. ("XRV") and Yaacov Apelbaum ("Apelbaum") (collectively "Plaintiffs"), and for their cause of action of intentional interference with contractual relations against Defendant Dean Miller ("Miller"), state to the Court as follows:

157. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

158. As stated in paragraph seventy-one (71) above, Miller's November 3, 2020 published "report" contains numerous defamatory statements, allegations and imputations ("Statements") about Plaintiffs.

159. These Statements are defamatory on their face....

160. These Statements were false.

161. These Statements are capable of a defamatory meaning because, when read by a reasonable reader in context, the aforementioned specific charges tend to, in no particular order:

- a. subject Plaintiffs to hatred, ridicule, and contempt;
- b. diminish Plaintiffs' standing in the community; and
- c. denigrate Plaintiffs' fitness as a cyber security firm, and as a cyber security expert, news commentators, and journalist.

162. The Statements are defamatory per se because they are defamatory on their face without any reference to outside material.

163. Miller published his Statements and false accusations therein as fact.

164. Miller did not publish his Statements and false accusations as mere parody or opinion.

165. Miller's Statements were unprivileged.

166. Even though the Statements are defamatory per se and actionable irrespective of allegations of special harm, but for Miller's Statements, Plaintiffs would not have suffered significant pecuniary damages. As a direct and proximate cause of Miller's defamatory

Statements, Plaintiffs' reputations and brand have been damaged in an amount in excess of twenty-five thousand dollars (\$25,000).

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses, and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendant's defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT VII – INJURIOUS FALSEHOOD
Brought by TGP Communications, LLC,
James Hoft, and Joseph Hoft Against Dean Miller

COME NOW Plaintiffs TGP Communications, LLC d/b/a TheGatewayPundit.Com ("TGP"), James Hoft, and Joseph Hoft (collectively "Plaintiffs"), and for their cause of action of intentional interference with contractual relations against Defendant Dean Miller ("Miller"), state to the Court as follows:

167. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

168. As stated in paragraph seventy-one (71) above, Miller's November 3, 2020 published "report" contains numerous false and defamatory statements, allegations and

imputations (“Statements”) about Plaintiffs which were directly harmful to Plaintiffs’ professional and business interests.

169. Miller published these Statements, either intending that they would result in harm to Plaintiffs’ business brand and professional brand, or recognized or could have recognized that the publication was likely to result in harm to Plaintiffs by way of reduced readership, reduced advertising, and therefore reduced revenue.

170. Miller either knew the Statements were false or acted with reckless disregard of their truth or falsity.

171. Miller’s Statements were a substantial factor in causing Plaintiffs to suffer pecuniary losses in an amount in excess of twenty-five thousand dollars (\$25,000), including special damages of lost readership and advertising revenue in excess of \$25,000 and damaged business and professional branding.

172. Defendant’s defamatory Statements were either published with malice or with reckless disregard of its truth or falsity, thus warranting an award of punitive damages that will punish and deter Miller and others from like conduct.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses, and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney’s fees; trial by jury on all issues so triable; the removal of all of Defendant’s defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT VIII – INJURIOUS FALSEHOOD
Brought by XRVision, Ltd. and Yaacov Apelbaum Against Dean Miller

COME NOW Plaintiffs XRVision, Ltd. (“XRV”) and Yaacov Apelbaum (“Apelbaum”) (collectively “Plaintiffs”), and for their cause of action of intentional interference with contractual relations against Defendant Dean Miller (“Miller”), state to the Court as follows:

173. Plaintiffs incorporate paragraphs 1-96 above as though fully set-forth and restated herein.

174. As stated in paragraph seventy-one (71) above, Miller’s November 3, 2020 published “report” contains numerous false and defamatory statements, allegations and imputations (“Statements”) about Plaintiffs which were directly harmful to Plaintiffs’ professional and business interests.

175. Miller published these Statements, either intending that they would result in harm to Plaintiffs’ business brand and professional brand, or recognized or could have recognized that the publication was likely to result in harm to Plaintiffs by way of lost clients and diminished sales.

176. Miller either knew the Statements were false or acted with reckless disregard of their truth or falsity.

177. Miller’s Statements were a substantial factor in causing Plaintiffs to suffer pecuniary losses in an amount in excess of twenty-five thousand dollars (\$25,000), including special damages of lost readership and advertising revenue in excess of \$25,000 and damaged business and professional branding.

178. Defendant’s defamatory Statements were either published with malice or with reckless disregard of its truth or falsity, thus warranting an award of punitive damages that will punish and deter Miller and others from like conduct.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Dean Miller for reputational damages, business losses, and branding damages in such sum in excess of \$25,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendant's defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ John C. Burns

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